



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

### CHAPTER 11

TAXABLE BENEFITS: EXCLUSION OF LOWER-PAID  
EMPLOYMENTS FROM PARTS OF BENEFITS CODE

#### *Introduction*

#### **216 Provisions not applicable to lower-paid employments**

- (1) The Chapters of the benefits code listed in subsection (4) do not apply to an employment in relation to a tax year if—
  - (a) it is lower-paid employment in relation to that year (see section 217), and
  - (b) condition A or B is met.
- (2) Condition A is that the employee is not employed as a director of a company.
- (3) Condition B is that the employee is employed as a director of a company but has no material interest in the company and either—
  - (a) the employment is as a full-time working director, or
  - (b) the company is non-profit-making or is established for charitable purposes only.

“Non-profit-making” means that the company does not carry on a trade and its functions do not consist wholly or mainly in the holding of investments or other property.

- (4) The Chapters referred to in subsection (1) are—
- Chapter 3 (taxable benefits: expenses payments);
  - Chapter 6 (taxable benefits: cars, vans and related benefits);
  - Chapter 7 (taxable benefits: loans);
  - Chapter 8 (taxable benefits: notional loans in respect of acquisitions of shares);
  - Chapter 9 (taxable benefits: disposals of shares for more than market value);
  - Chapter 10 (taxable benefits: residual liability to charge).
- (5) Subsection (1)—
- (a) means that in any of those Chapters a reference to an employee does not include an employee whose employment is within the exclusion in that subsection, if the context is such that the reference is to an employee in relation to whom the Chapter applies, but
  - (b) does not restrict the meaning of references to employees in other contexts.
- (6) Subsection (1) has effect subject to—
- section 188(2) (discharge of loan: where employment becomes lower-paid),
  - section 195(3) (discharge of notional loan: where employment becomes lower-paid),
  - section 199(4) (disposal for more than market value: where employment becomes lower-paid), and
  - section 220 (employment in two or more related employments).

*What is lower-paid employment*

**217 Meaning of “lower-paid employment”**

- (1) For the purposes of this Chapter an employment is “lower-paid employment” in relation to a tax year if the earnings rate for the employment for the year (calculated under section 218) is less than £8,500.
- (2) Subsection (1) is subject to section 220 (employment in two or more related employments).

**218 Calculation of earnings rate for a tax year**

- (1) For any tax year the earnings rate for an employment is to be calculated as follows—
- Step 1*
- Find the total of the following amounts—
- (a) the total amount of the earnings from the employment for the year within Chapter 1 of this Part,
  - (b) the total of any amounts that are treated as earnings from the employment for the year under the benefits code (see subsections (2) and (3)),
  - (c) the total of any amounts that are treated as earnings from the employment for the year under Chapter 12 of this Part (payments treated as earnings), and
  - (d) in the case of an employment within section 56(2) (deemed employment of worker by intermediary), the amount of the deemed employment payment for the year (see section 54),

excluding any exempt income.

*Step 2*

Add to that total any extra amount required to be added for the year by section 219 (extra amounts to be added in connection with a car).

*Step 3*

Subtract the total amount of any authorised deductions (see subsection (4)) from the result of step 2.

*Step 4*

The earnings rate for the employment for the year is given by the formula—

$$R \times \frac{Y}{E}$$

where—

R is the result of step 3,

Y is the number of days in the year, and

E is the number of days in the year when the employment is held.

- (2) Section 216(1) (provisions not applicable to lower-paid employment) is to be disregarded for the purpose of determining any amount under step 1.
- (3) If the benefit of living accommodation is to be taken into account under step 1, the cash equivalent is to be calculated in accordance with section 105 (even if the cost of providing the accommodation exceeds £75,000).
- (4) For the purposes of step 3 “authorised deduction” means any deduction that would (assuming it was an amount of taxable earnings) be allowed from any amount within step 1 under—
  - section 346 (employee liabilities),
  - section 352 (agency fees paid by entertainers),
  - section 355 (corresponding payments by non-domiciled employees with foreign employers),
  - section 368 (fixed sum deductions from earnings payable out of public revenue),
  - section 370 (travel costs and expenses where duties performed abroad: employee’s travel),
  - section 371 (travel costs and expenses where duties performed abroad: visiting spouse’s or child’s travel),
  - section 373 (non-domiciled employee’s travel costs and expenses where duties performed in UK),
  - section 374 (non-domiciled employee’s spouse’s or child’s travel costs and expenses where duties performed in UK),
  - section 376 (foreign accommodation and subsistence costs and expenses (overseas employments)),
  - section 377 (costs and expenses in respect of personal security assets and services),
  - section 713 (payroll giving to charities),
  - section 592(7) of ICTA (contributions to exempt approved schemes),
  - section 594 of ICTA (contributions to exempt statutory schemes), or
  - section 262 of CAA 2001 (capital allowances to be given effect by treating them as deductions).

## **219 Extra amounts to be added in connection with a car**

- (1) The provisions of this section apply for the purposes of section 218(1) in the case of a tax year in which a car is made available as mentioned in section 114(1) (cars, vans and related benefits) by reason of the employment.
- (2) Subsection (3) applies if in the tax year—
  - (a) an alternative to the benefit of the car is offered, and
  - (b) the amount that would be earnings within Chapter 1 of this Part if the benefit of the car were to be determined by reference to the alternative offered exceeds the benefit code earnings (see subsection (4)).
- (3) The amount of the excess is an extra amount to be added under step 2 in section 218(1).
- (4) For the purposes of subsection (2) “the benefit code earnings” is the total for the year of—
  - (a) the cash equivalent of the benefit of the car (calculated in accordance with Chapter 6 of this Part), and
  - (b) the cash equivalent (calculated in accordance with that Chapter) of the benefit of any fuel provided for the car by reason of the employment.
- (5) Subsection (6) applies if in the tax year there would be an amount of general earnings consisting of—
  - (a) earnings within Chapter 1 of this Part, or
  - (b) an amount treated as earnings from the employment under Chapter 3 (expenses payments) or Chapter 4 (vouchers and credit-tokens) of this Part, if section 239 or 269 (exemptions in respect of payments or benefits connected with taxable cars etc.) did not apply to the discharge of a liability, or to a payment or benefit, in connection with the car.
- (6) The amount of general earnings mentioned in subsection (5) is an extra amount to be added under step 2 in section 218(1).
- (7) Section 216(1) (provisions not applicable to lower-paid employment) is to be disregarded for the purpose of determining any amount under this section.

### *Treatment of related employments*

## **220 Related employments**

- (1) This section applies if a person is employed in two or more related employments.
- (2) None of the employments is to be regarded as lower-paid employment in relation to a tax year if—
  - (a) the total of the earnings rates for the employments for the year (calculated in each case under section 218) is £8,500 or more, or
  - (b) any of them is an employment falling outside the exclusion contained in section 216(1) (provisions not applicable to lower-paid employment).
- (3) For the purposes of this section two employments are “related” if—
  - (a) both are with the same employer, or
  - (b) one is with a body or partnership (“A”) and the other is either—
    - (i) with an individual, partnership or body that controls A (“B”), or

(ii) with another partnership or body also controlled by B.